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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,169	02/25/2000	Claire Martin	Q57933	7864
7590	08/09/2005		EXAMINER	
Sughrue Mion Zinn Macpeak & Seas PLLC 2100 Pennsylvania Avenue NW Washington, DC 20037-3202			JAGANNATHAN, MELANIE	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/513,169

Applicant(s)

MARTIN ET AL.

Examiner

Melanie Jagannathan

Art Unit

2666

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: Examiner appreciates detailed description of prior art Wright et al. Applicant argues Wright et al. does not disclose claimed limitation of first plurality of bits according to identification of selected element and second plurality of bits according to identification of locally predefined function included in grant signal. Examiner believes the claimed determining by line terminator a first plurality of bits according to an identification of a selected element and a second plurality of bits according to an identification of locally predefined function is disclosed by control information divided into two fields for each wavelength and each field identifies the ONUs which must select that wavelength in each successive time slot. Examiner interprets field identifying ONU for certain wavelength as first plurality of bits according to an identification of a selected element and time slot and wavelength information as second plurality of bits. Applicant argues Wright et al. does not disclose in-line elements connecting network terminator or line terminator. Examiner contends Wright et al. discloses passive optical network with optical line terminator (Figure 2, element 12) and plurality of optical network units (elements ONU 1-5) where each ONU includes a tunable filter connected to downstream PON for receiving WDM optical signals from OLT. See column 1, lines 10-39, column 8, lines 1-17, column 9, lines 53-60. In light of claim language, Examiner believes this reads on claimed limitation of connecting network and line terminators. Applicant also argue Wright et al. does not teach first plurality of bits identifying a selected element namely an in-line element. Examiner interprets field identifying ONU for certain wavelength as first plurality of bits according to an identification of a selected element and time slot and wavelength information as second plurality of bits according to an identification of a locally predefined function since this information causes ONU to tune into relevant time slot to optical signal whose wavelength corresponds to that field. See column 9, lines 17-67, column 10, lines 1-9, lines 23-67, column 11, lines 1-14. Examiner believes tuning into relevant time slot using wavelength information (first plurality of bits) teaches selecting the certain OLT with tunable filter. Applicant argues tunable filters do not facilitate transmission of signals from network terminators to line terminator and vice versa. Examiner contends tunable filters do facilitate transmission of signals due to selecting optical signals having specified wavelength and using these signals to extract data to output from ONU to customer and data from customer for transmission is received at ONU and transmitted to OLT. See column 9, lines 49-67, column 10, lines 1-14.

DANG TON
PRIMARY EXAMINER